

The CURE

Contract User's Resource for Excellence

The "CURE" is a quarterly newsletter of the State Controller's Office

Volume 5, Issue 2

April 1, 1999

News From The SCO

A State Controller's Office Update

By John Ivy, SCO

⇒ Proposed New SCO Waiver Policy

Attached to this issue of the CURE is a proposed new SCO policy that, if authorized, will allow state agencies and institutions to waive the requirement for a legal sufficiency review by the Attorney General's Office for certain state contracts that fall within the thresholds established by and consistent with the limitations contained in the proposed new policy.

Please review the policy and discuss it with your contracting staff prior to our CCIT meeting on April 21st. Please bring your comments and questions with you to the meeting. The proposed new policy is an agenda item and will be discussed in detail at the meeting.

⇒ A Victim of Our Own Success

Most of the *senior* CCIT members will remember that the first CCIT meetings were held in a basement conference room in the State Services Building. As more and more members joined and began attending our quarterly meetings, we exceeded the capacity of the conference room. For the past year we have been meeting in the State Training Center at the Chancery Building. With the number of attendees exceeding fifty at each of our last two meetings, we have again been forced to move to a new location.

The April 21st CCIT meeting will be held in Room 318 of the Centennial Building, 1313 Sherman Street, Denver.

At the April meeting we will discuss the size and location requirements for future CCIT meetings. If your agency has a meeting room we could use that would accommodate 50-75 people, please let us know.

⇒ Contract Manual and January 1, 1999 Revision

The revised State of Colorado Contract Procedures and Management Manual and the January 1 revision packet are on the SCO website. If you have not already updated your copy of the *Manual*, you may access the revision on the internet and print out the revised pages at www.sco.state.co.us/contract/contract.htm.

⇒ Contract Training

Brad Mallon's contract training courses are still going strong. Brad can tailor his classes to agency needs and will travel to agency locations. Please give him a call at 303-866-4265 for additional information or training.

Central Approvers Names and Numbers

NAME	PHONE #	FAX #
Privatization Program:		
Yvonne Anderson	303-866-2862	303-866-3569
Real Estate Services:		
Mike Beery	303-866-4564	303-866-4367
Contract Approval (SCO):		
Phil Holtmann	303-866-3809	303-866-3569
Chris Trujillo	303-866-3820	303-866-3569
State Buildings Programs:		
Carol Lieber	303-866-3158	303-894-7478
State Purchasing:		
Kay Kishline	303-866-6181	303-894-7444
Jane Lopez	303-866-6146	303-894-7478
Attorney General's Office:		
Richard Pennington	303-866-5151	303-866-5671
David Kaye	303-866-5142	303-866-5671
James Martin	303-866-5227	303-866-5671

NOTE: You may e-mail any of the above by using the following format: **firstname.lastname@state.co.us**

Changes in the Office of the Attorney General

By David Kay and Richard Pennington, AGO

This article is intended to summarize changes in the Attorney General's Office of particular interest to State purchasing and contracting personnel.

Effective March 1, 1999 Richard Pennington accepted a position as First Assistant Attorney General in the Litigation Section. He will focus on procurement and construction litigation, as well as advising agencies and institutions in construction and other contract disputes. The position currently is being funded by the Department of Corrections, the defendant in Alliance Construction Solutions, Inc. v. Department of Corrections, a case filed on March 12, 1999 and arising out of the Trinidad Correctional Facility project termination last Fall. Richard plans to continue to advise other agencies and institutions on construction disputes. He has been talking with some of your agencies about the need for additional construction dispute assistance; one solution being considered is centralization of a request for funding through State Buildings Programs.

David Kaye's unit will remain the advisor to the State Controller and State Purchasing Director and perform the contract review function. Jim Martin has performed contract review functions for the past two years to assist Richard, and Jim and David will continue to perform contract reviews through the transition until a replacement for Richard is selected. Richard is also continuing to help with contract reviews as time permits. The hiring process for Richard's replacement is underway.

The strategic "vision" includes both Richard's and David's units in contract improvement initiatives and litigation teaming arrangements. Litigation lessons are especially valuable to contract drafters, and Richard will stay closely involved with State Buildings in revising and developing contract formats. Below is a summarization of the relationship between David's contracts unit and Richard's procurement/construction litigation unit that was provided to the Deputies in the Department of Law. This relationship will be refined as changing circumstances warrant.

- ◆ In general, David Kaye's unit will handle requests for assistance in contract formation and procurement issues. Until further notice, please contact Jim Martin (866-5227) for that advice. David's focus will be on policy and more complex issues and transactions. Richard Pennington (866-5151) will satisfy requests

for assistance with contract administration problems and dispute issues. David and Richard will be having recurring meetings to discuss contracting issues and work closely to insure the right expertise is assigned to them. Richard will assist David's unit to the extent he can, especially in complex procurements. David's unit will handle routine contract administration questions, such as amendments, but refer requests for advice concerning contract administration problems and dispute resolution to Richard.

- ◆ With respect to contract review, Richard will perform State Controller legal review of all Department of Corrections capital construction agreements. For the time being, Richard will handle transactional advice and perform legal review of all other capital construction agreements to alleviate some of David's unit's workload during the transition. During the transition and hiring of Richard's replacement, Richard will help with other contract reviews as well, time permitting.
- ◆ Richard will continue to work with State Buildings Programs on capital construction contract issues, contract form development and revisions, and other advice.
- ◆ Richard will assist with training attorneys in the contracting unit in fiscal, contract and procurement law. He has also asked to stay involved in contract improvement initiatives, and he expects to attend CCIT meetings. He has offered to help with other State training initiatives as well.

In short, please contact Richard Pennington for:

- ⇒ Procurement and contract disputes, either actual or potential.
- ⇒ All capital construction and Part 14 professional services issues (solicitation, negotiation, formation, disputes, amendments, change orders, and Controller legal reviews).

Please contact David Kaye's unit for all other procurement and contract issues.

The Attorney General's Office considers this reorganization an important, first step in finally developing a core of legal resources to provide the full range of services in contracting and procurement. We hope that you agree and we welcome your comments.

Notes
From State Purchasing
By Jane Lopez, DOPSB

Effective April 15, the State Purchasing Director is amending the Group I delegation agreements to allow agencies to make procurements using competitive sealed bids. When a delegated Group I agency wants to purchase commodities over \$10,000 (or services over \$25,000 that can be procured with an IFB rather than an RFP) agencies can now prepare the IFB using Lotus Notes.

Initially, it will be necessary to send all draft bids to the Division of Purchasing office via Lotus Notes for co-author approval before publication on the Internet. However, the State Purchasing Director will review this policy in six months to determine whether that approval step is still warranted.

In order to answer any questions you may have and to ensure a smooth transition to this new procedure, the Division of Purchasing will conduct a mandatory training session on preparation of Invitations for Bids on April 7 and April 9 from 9:00 to 12:00 at 225 E. 16th Avenue, Suite 900. Group I agencies may attend either session, but please call the Division of Purchasing office at 303-866-6100 to make a reservation so we can be sure we have enough materials for everyone.

Employees in Department of Personnel/GSS should plan to attend training on April 12 from 9:00-12:00 rather than one of the other dates so that State Purchasing can cover several internal operational issues at the same time.

On the World Wide Web at :

www.sco.state.co.us/

CONTRACT PROCEDURES AND MANAGEMENT

MANUAL

contract/contract.htm

PRIVATIZATION PROGRAM PROCEDURES AND FORMS

private/private.htm

CURE

cure/cure.htm

Contract Training
Alive and Well!
By Brad Mallon, GSS

Training for Colorado contract writers and managers continues to be one of the most successful endeavors undertaken by the State Training Academy.

To date, 1500 people from have taken the one-day State Contract Management Training Course, which focuses on the aspects of successfully managing a state contract.

Our latest offering, Contract Writing, Planning and Processing, known as Contracts II for short, has been taken by over 300 people and is scheduled to be delivered to almost 100 in the month of April. It, too, is a full day of contract training and is devoted to the many state employees, at all levels, who are tasked by their supervisor to draft a contract.

The most requested classes are those that are tailored to the specific needs of an agency, given at the agency's location, and involve agency contract staff.

A new class, still in the developing stage for 1999 is Grant Writing. If you are interested in finding out more about the contracts training courses, if you need additional information, or would you like to see additional contract training offered, please contact Brad Mallon at 303-866-4265.

“IMPORTANT TIDBITS”

from the Department of Personnel Privatization Review
By Yvonne Anderson, SCO

Catering Services

The definition of “personal services” is broad and essentially includes all work performed by a human being. Under the Privatization legislation, the State Personnel Director is required to review all personal services agreements whether they are in a form of a contract or purchase agreement regardless of dollar amount. In addition, the State Personnel Director is charged with the responsibility of reviewing personal services agreements that “directly” or “indirectly” im-

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pact state classified staff. “Food Service Workers” is a job classification within the state-classified system and therefore catering requires Privatization review. A few examples include: 1) Your agency/institution holds a meeting (on or off-site) and meals/snacks are delivered; 2) Your agency/institution holds a training/workshop at a hotel and the hotel provides meals, snacks, and/or beverages then the DOP should be receiving these requests for review. There are two exceptions: 1) Your agency/institution was granted a program waiver from the DOP for these services; 2) If your institution employs “Food Service Workers” and your institution is in need of catering, Food Services should be contacted to determine if they are able to provide

the services. If Food Services are unable to provide the services, a waiver letter will need to be obtained from them and placed in your files.

Waiver Program

If your agency has not taken advantage of the waiver process we have available within the Privatization Program, this may be the time to do so. For more information, please feel free to call me at (303) 866-2862.

Reminders

There are some types of services that have been identified as exempt from Privatization review. This information can be found in the “Privatization Program Training Manual” (page 37) on the World Wide Web: www.sco.state.co.us/private/private.htm.

Note: The following is a reprint of the training outline from the January 1, CURE. The training provided by Harry McCabe will be concluded at the April 21st CCIT meeting. See you there!

January 20, 1999 CCIT Meeting
Negotiations Concepts Training – Outline
By Harry McCabe, Human Services

This presentation is meant to provide the student with an overview of the subject: “Negotiation Strategy.” Only the principle concepts involved in the subject will be looked at. An in-depth presentation of the subject requires considerably more time than is available for today’s presentation. The most exciting aspect of the subject matter may lie in the notion that good negotiators are made, not born. Through study and effort, almost anyone has the potential to gain excellent negotiating skills and results.

This presentation draws from a presentation given by David G. Gold on October 9-10, 1998 at the Hyatt Regency Denver. The presentation was entitled: “Cutting Edge Negotiation Strategy for Lawyers.” David Gold is a highly respected expert in the subject matter of negotiation. He is the managing director of the Negotiation Strategy Group consulting firm. Mr. Gold lectures widely on negotiation. If you have further interested in the subject and have an opportunity to take a class under Mr. Gold, don’t pass it up!

Following is a listing of the main subject heading for the presentation:

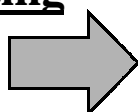
Interest – Power – Strategy	Win-Win Negotiation
BATNA	Alternative Dispute Resolution
Time	Negotiation Personalities
Anchors of Negotiation	Negotiation Tactics
Interest vs. Position	Multi-Issue Negotiation

At the end of the presentation, you will have a basic understanding of these terms/concepts as they relate to the subject of Negotiation Strategy.

Office of the State Controller
 State Contracting Unit
 1525 Sherman Street, Suite 250
 Denver, CO 80203
 Phone: 303-866-3281
 Fax: 303-866-3569



**Note: Change in Meeting
Location**



Key to CCIT Abbreviations

Attorney General's Office	AGO
Central Approvers Task Force	CATF
Colorado Contract Improvement Team	CCIT
Contract User's Resource for Excellence	CURE
Division of Purchasing/State Buildings	DOPSB
General Support Services	GSS
Real Estate Services	RES
State Buildings Programs	SBP
State Controller's Office	SCO

CCIT Meeting

Wednesday April 21, 1999

Centennial Building, Room 318, 1313 Sherman St.

Agenda

9:00-9:10	Meeting Notes	Phil Holtmann
9:10-10:30	Negotiation Training	Harry McCabe
10:30-10:50	Break	
10:50-11:00	Changes in the AGO	David Kaye
11:00-11:30	Draft Legal Waiver Policy	Dave, John & Phil
11:30-12:00	A Place to Meet	John Ivy